

REMARKS

Change of Correspondence Address

It is noted that the February 10 Office Action was mailed to the prior attorney of record. However, the Power of Attorney was revoked for that agent and the Power of Attorney and corresponding address changed to that of the undersigned agent on September 24, 2002. A copy of the Revocation and Power of Attorney, with the dated postcard indicating the receipt of the same by the Patent Office, are enclosed. Please update the correspondence address for this application.

Rejection of Claims 1-9, 11-14, 16-27, 32-33 and 39-40 Under 35 U.S.C. § 102(b):

The Examiner has rejected Claims 1-9, 11-14, 16-27, 32-33 and 39-40 under 35 U.S.C. § 102(b), contending that these claims are anticipated by PCT Publication WO 92/08488. The Examiner contends that WO 92/08488 teaches a method to protect a mammal from a disease characterized by eosinophilia comprising administering a heat shock protein (mycobacterial Hsp 65) to a mammal having the disease.

Applicants respectfully traverse this rejection. Initially, Applicants note that independent Claims 1, 39 and 40 have been amended to clarify the present invention. Specifically, these claims have been amended to recite that the method *consists of* administering to a mammal a formulation *consisting of* a heat shock protein and at least one pharmaceutically acceptable excipient. Support for this amendment is found in original Claim 32 (now cancelled) or in the specification, page 43, line 20 to page 45, line 16.

WO 92/08488 teaches the use of killed cells of *Mycobacterium vaccae* to be administered in conjunction with an antigen that is exogenous to *M. vaccae*, in order to elicit an immune response against the antigen. In other words, the *M. vaccae* is used as an adjuvant. In contrast, the claimed invention, as amended, is directed to the administration of a heat shock protein, where the only other component in the formulation is a pharmaceutically acceptable excipient, which does not include an antigen. WO 92/08488 does not teach the administration of only a heat shock protein *without* a corresponding antigen and therefore, WO 92/08488 does not anticipate the present claims as amended.

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-9, 11-14, 16-27, 32-33 and 39-40 under 35 U.S.C. § 102(b).

Rejection of Claims 15 and 28-31 Under 35 U.S.C. § 103:

The Examiner has rejected Claims 15 and 28-31 under 35 U.S.C. § 103, contending that these claims are unpatentable over PCT Publication No. WO 92/08488. The Examiner states that this reference does not teach an oral or nasal route of administration, nor the dosage ranges of Claims 28-31, but asserts that this would be an obvious optimization falling within the purview of one of skill in the art.

Applicants respectfully traverse the rejection of Claims 15 and 28-31 under 35 U.S.C. § 103. Applicants refer to the amendments and arguments discussed above and submit that WO 92/08488 does not teach or suggest the administration of a heat shock protein in the absence of an antigen, because WO 92/08488 is directed to the use of *M. vaccae* as an adjuvant to stimulate the immune response against an exogenous antigen. Therefore, there is also no suggestion or motivation to modify the teachings of WO 92/08488 to provide the presently claimed invention.

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the rejection of 15 and 28-31 under 35 U.S.C. § 103.

Applicants have attempted to respond to all of the issues set forth in the February 10 Office Action and submit that the claims are in a condition for allowance. In the event that the Examiner has any further concerns with regard to Applicants' position, the Examiner is encouraged to contact the below-named agent at (303) 863-9700 to expedite prosecution.

Respectfully submitted,

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